

Q 617-1

In the Matter of

COLEMAN DEUTSCHLAND, GmbH

ORDER

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<sup>1</sup> The Act expired on August 20, 1994. Executive Order 12924 (3 C.F.R., 1994 Comp. 917 (1995)), extended by Presidential Notices of August 15, 1995 (3 C.F.R., 1995 Comp. 501 (1996)) and August 14, 1996 (3 C.F.R., 1996 Comp. 298 (1997)), continued the Regulations in effect under the International Emergency Economic Powers Act (50 U.S.C.A. §§ 1701-1706 (1991 & Supp. 1997)).

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The Department and CDG having entered into a Settlement Agreement, incorporated herein by this reference, whereby the parties have agreed to settle this matter; and

The Assistant Secretary for Export Enforcement having approved the terms of the Settlement Agreement:

IT IS THEREFORE ORDERED THAT,

FIRST, a civil penalty in the amount of \$20,000 is assessed against CDG;


SECOND, CDG shall pay to the Department this sum of \$20,000 within thirty (30) days of service of this Order, as specified in the attached instructions.

THIRD, as authorized by Section 11(d) of the Act, the timely payment of this sum of \$20,000 is hereby made a condition to the granting, restoration or continuing validity of any export license, permission, or privilege granted, or to be granted, to CDG. Accordingly, if CDG should fail to pay this sum in a timely manner, the undersigned will enter an Order under the authority of Section 11(d) of the Act denying all of CDG's export privileges for a period of one year from the date of the entry of this Order; and

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FOURTH, the Proposed Charging Letter, the Settlement Agreement and this Order shall be made available to the public, and a copy of this Order shall be served upon CDG.

This Order is effective immediately.

  
Frank W. Deliberti  
Acting Assistant Secretary  
for Export Enforcement

Entered this 13<sup>th</sup> day of August, 1997

INSTRUCTIONS FOR PAYMENT OF CIVIL PENALTY

1. The civil penalty check should be made payable to:

U.S. DEPARTMENT OF COMMERCE

2. The check should be mailed to:

U.S. Department of Commerce  
Bureau of Export Administration  
Room 622  
14th & Constitution Avenue, N.W.  
Washington, D.C. 20230

Attention: Miriam Cohen

UNITED STATES OF AMERICA

DEPARTMENT OF COMMERCE

_____	)	
	)	
In the Matter of	)	
	)	
	)	Case No. <u>93-78</u>
	)	
COLEMAN DEUTSCHLAND, GmbH	)	
	)	
_____	)	

SETTLEMENT AGREEMENT

This agreement is made by and between Coleman Deutschland, GmbH ("CDG"), a wholly owned, controlled-in-fact foreign subsidiary of The Coleman Company, Inc., a domestic concern resident in the State of Kansas, and the United States Department of Commerce ("Department"), pursuant to Section 766.18(a) of the Export Administration Regulations (currently codified at 15 C.F.R. Parts 730-774 (1997), issued pursuant to the Export Administration Act of 1979, as amended (50 U.S.C.A. app. §§ 2401-2420 (1991 & Supp. 1997)) (the "Act").<sup>1</sup>

WHEREAS, the Office of Antiboycott Compliance, Bureau of Export Administration, U.S. Department of Commerce, has notified CDG of its intention to initiate an administrative proceeding against CDG pursuant to Section 11 (c) of the Act by issuing the

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<sup>1</sup> The Act expired on August 20, 1994. Executive Order 12924 (3 C.F.R., 1994 Comp. 917 (1995), extended by Presidential Notices of August 15, 1995 (C.F.R., 1995 Comp. 501 (1996) and August 14, 1996 (3 C.F.R., 1996 Comp. 298 (1997)), continued the Regulations in effect under the International Emergency Economic Powers Act (50 U.S.C.A. §§ 1701-1706 (1991 & Supp. 1997)).

Proposed Charging Letter, dated May 29, 1997, a copy of which is attached hereto and incorporated herein by this reference; and

WHEREAS, CDG has reviewed the Proposed Charging Letter, has responded to the allegations set forth against it, and is aware of the administrative sanctions which could be imposed against it if the allegations were found to be true;

WHEREAS, CDG and the Department wish to settle and dispose of the allegations made in the Proposed Charging Letter by entering into this Settlement Agreement;

WHEREAS, CDG fully understands the terms of this Settlement Agreement, and enters into this Settlement Agreement voluntarily and with full knowledge of its rights; and CDG states that no promises or representations have been made to it other than the agreements and considerations herein expressed; and

WHEREAS, CDG agrees to be bound by an Order giving effect to the terms of this Settlement Agreement (the "appropriate Order") when entered;

NOW, THEREFORE, CDG and the Department agree as follows:

1. The Department has jurisdiction over CDG under the Act and the Regulations, to the extent permitted by law, with respect to the matters alleged in the Proposed Charging Letter.
2. In complete settlement of all matters set forth in the Proposed Charging Letter, CDG will pay to the Department, within 30 days of service upon it of the appropriate Order, when entered, the amount of \$20,000.
3. As authorized by Section 11(d) of the Act, timely payment of the amount agreed to in paragraph 2 is hereby made a condition of the granting, restoration, or continuing validity of any export license, permission, or privilege granted, or to be granted, to CDG. Failure to make payment of this amount shall result in the denial of all of CDG's export privileges for a period of one year from the date of entry of the appropriate Order.
4. Subject to the approval of this Settlement Agreement pursuant to paragraph 10 hereof, CDG hereby waives all rights to further procedural steps in this matter (except

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with respect to any alleged violation of this Settlement Agreement or the appropriate Order, when entered) including, without limitation, any right to:

- A. An administrative hearing regarding the allegations in the Proposed Charging Letter;
  - B. Request a refund of the funds paid by CDG pursuant to this Settlement Agreement and the appropriate Order, when entered; or
  - C. Seek judicial review or otherwise contest the validity of this Settlement Agreement or the appropriate Order, when entered.
5. The Department represents that it will not, prior to entry of the appropriate Order, initiate any administrative or judicial proceeding, or make any referral to the Department of Justice or any other agency of the United States Government for possible enforcement action, against CDG or any of its officers, directors, employees, or related companies with respect to any alleged violation of Section 8 of the Act or Part 769 or redesignated Part 760 of the Regulations arising out of the transactions set forth in the Proposed Charging Letter or any other transaction that was



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disclosed to or reviewed by the Department prior to execution of this Settlement Agreement.

6. The Department, upon entry of the appropriate Order, will not subsequently initiate any administrative or judicial proceeding, or make a referral to the Department of Justice or any other agency of the United States Government for possible enforcement action, against CDG or any of its officers, directors, employees, or related companies with respect to any alleged violation of Section 8 of the Act or Part 769 or redesignated Part 760 of the Regulations arising out of the transactions set forth in the Proposed Charging Letter or any other transaction that was disclosed to or reviewed by the Department prior to the execution of this Settlement Agreement.
7. CDG understands that the Department will disclose publicly the Proposed Charging Letter, this Settlement Agreement, and the appropriate Order, when entered.
8. This Settlement Agreement is for settlement purposes only, and does not constitute a finding or determination by the Department or an admission by CDG that CDG violated the Act or the Regulations or an admission of the truth of any allegation contained in the Proposed

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Charging Letter or referred to in this Settlement Agreement. If this Settlement Agreement is not accepted and the appropriate Order not entered by the Assistant Secretary for Export Enforcement, the Department may not use this Settlement Agreement against CDG in any administrative or judicial proceeding.

9. No agreement, understanding, representation or interpretation not contained in this Settlement Agreement may be used to vary or otherwise affect the terms of this Settlement Agreement or the appropriate Order, when entered, nor shall this Settlement Agreement bind, constrain or otherwise limit the action of any other agency or department of the United States Government. This paragraph shall not limit CDG's right to challenge any action brought by any other agency or department based on a referral by the Department or any employee thereof in contravention of paragraph 5 or 6 of this Settlement Agreement.
10. This Settlement Agreement will become binding on the Department only when approved by the Assistant Secretary for Export Enforcement by entering the appropriate Order.

COLEMAN DEUTSCHLAND, GmbH



Ingo Gevers  
Managing Director

Date: July 28, 1997

U.S. DEPARTMENT OF COMMERCE



Dexter M. Price  
Acting Director  
Office of Antiboycott Compliance

Date: August 1, 1997



PROPOSED CHARGING LETTER

May 29, 1997

Coleman Deutschland, GmbH  
EZetilstrasse  
W-6303 Hungen 3  
Germany

Case No. 93-78

Ladies and Gentlemen:

We have reason to believe and charge that you, Coleman Deutschland GmbH have committed ten (10) violations of the Export Administration Regulations, currently codified at 15 C.F.R. Parts 730-774 (1997), (the "Regulations")<sup>1</sup> issued pursuant to the Export Administration Act of 1979, as amended (50 U.S.C.A. app. §§ 2401-2420 (1991 & Supp. 1997)) (the "Act").<sup>2</sup> We charge that you committed ten violations of Section 769.2(d) of the former Regulations, in that, with intent to comply with, further, or support an unsanctioned foreign boycott, you furnished ten (10) items of information about your business relationships with or in a boycotted country.

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<sup>1</sup> The alleged violations occurred in 1993. The Regulations governing the violations at issue are found in the 1993 version of the Code of Federal Regulations (15 C.F.R. Parts 768-799 (1993)). Those Regulations define the violations that the Bureau of Export Administration alleges occurred and are referred to hereinafter as the former Regulations. Since that time, the Regulations have been reorganized and restructured; the restructured Regulations, codified at 15 C.F.R. Parts 730-774, established the procedures that apply to the matters in this letter.

<sup>2</sup> The Act expired on August 20, 1994. Executive Order 12924 (3 C.F.R., 1994 Comp. 917 (1995)), extended by Presidential Notices of August 15, 1995 (3 C.F.R., 1995 Comp. 501 (1996)) and August 14, 1996, (3 C.F.R., 1996 Comp. 298 (1997)), continued the Regulations in effect under the International Emergency Economic Powers Act (50 U.S.C.A. §§ 1701-1706 (1991 & Supp. 1997)).



We allege that:

1. The Coleman Company, Inc. is a domestic concern incorporated in the State of Delaware and a resident in the State of Kansas and, as such, is a United States person as defined in Section 760.1(b) of the Regulations.
2. You, Coleman Deutschland GmbH, are a company registered under the laws of the Federal Republic of Germany, and a wholly owned subsidiary of The Coleman Company, Inc. Accordingly, you are a controlled-in-fact foreign subsidiary of a domestic concern, as defined in Section 760.1(c) of the Regulations, and, as such, are a United States person as defined in Section 760.1(b) of the Regulations.
3. During the period January 1993 through March 1993, you engaged in transactions involving the sale of United States-origin goods to Kuwait, Qatar, Bahrain and the United Arab Emirates, activities in the interstate or foreign commerce of the United States as then defined in Section 769.1(d) of the former Regulations.
4. In connection with the transactions referred to in paragraph 3 above, during the period January 1993 through March 1993 you provided documents in connection with transactions with customers in Kuwait, Qatar, Bahrain, and the United Arab Emirates containing information as described in Table A, which is attached and incorporated by this reference.
5. By providing the information referred to in paragraph 4 above, you furnished ten (10) items of information about your business relationships with or in a boycotted country, activities prohibited by Section 769.2(d) of the former Regulations, and not excepted.

Accordingly, administrative proceedings are instituted against you pursuant to Part 766 of the Regulations for the purpose of obtaining an Order imposing administrative sanctions.<sup>3</sup>

If you fail to answer the allegations contained in this letter within thirty (30) days after service as provided in Section 766.6, such failure will be treated as a default under Section 766.7.

You are entitled to a hearing on the record as provided in Section 766.6 of the Regulations. If you wish to have a hearing on the record, you must file a written demand for it with your answer. You are entitled to be represented by counsel, and under Section 766.18 of the Regulations, to seek a settlement agreement.

As provided in Section 766.3, I am referring this matter to the Administrative Law Judge. Pursuant to an Interagency Agreement between BXA and the U.S. Coast Guard, the U.S. Coast Guard is providing administrative law judge services, to the extent that such services are required under the Regulations, in connection with the matters set forth in this letter. Therefore, in accordance with the instructions in Section 766.5(a) of the Regulations, your answer should be filed with:

U.S. Coast Guard ALJ Docketing Center  
40 South Gay Street  
Baltimore, Maryland 21202-4022

Attention: Administrative Law Judge

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<sup>3</sup> /Administrative sanctions may include any or all the following:

- a. Denial of export privileges (see § 764.3(a)(2) of the Regulations);
- b. Exclusion from practice (see § 764.3(a)(3) of the Regulations); and/or
- c. The maximum civil penalty of \$10,000 per violation (see § 764.3(a)(1) of the Regulations).

Also, in accordance with the instructions in Section 766.5(b) of the Regulations, a copy of your answer should also be served on the Bureau of Export Administration at:

Office of the Chief Counsel for Export Administration  
U.S. Department of Commerce  
Room H-3839  
14th Street & Constitution Avenue, N.W.  
Washington, D.C. 20230

Attention: Jeffrey E.M. Joyner, Esq.

Mr. Joyner can be reached by telephone at (202) 482-5311.

Sincerely,

Dexter M. Price  
Acting Director  
Office of Antiboycott Compliance

Q 61-14

TABLE A  
Schedule of Alleged Violations of Section 769.2(d)  
(Furnishing of Prohibited Information)  
Coleman Deutschland GmbH  
Case No. 93-78

<u>Item</u>	<u>Number</u>	<u>Date</u>	<u>Country</u>	<u>Code*</u>
A1.	9638	1/5/93	Kuwait	A
A2.	9648	1/20/93	United Arab Emirates	A
A3.	9647/49	1/22/93	United Arab Emirates	A
A4.	9652	2/2/93	Qatar	A
A5.	9658	2/10/93	Bahrain	A
A6.	9659	2/10/93	Bahrain	A
A7.	9663	2/16/93	Kuwait	A
A8.	9666	3/3/93	Qatar	A
A9.	9674	3/15/93	Kuwait	A
A10.	N/A	3/4/93	Kuwait	B

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\*/ Code to Information Furnished

A. Invoices containing the following language:

"The goods are neither of Israeli origin nor do they contain Israeli materials nor are they being exported from Israel."

B. Certificate of origin containing the following language:

"We hereby declare that the goods are neither of Israeli origin nor do they contain Israeli materials nor are they being exported from Israel."



UNITED STATES DEPARTMENT OF  
**COMMERCE**  
**NEWS**

WASHINGTON, D.C. 20230

0617-111  
BUREAU OF  
EXPORT  
ADMINISTRATION

FOR IMMEDIATE RELEASE:  
August 13, 1997  
internet: www.bxa.doc.gov  
BXA-97-33

CONTACTS: Eugene Cottilli ✕  
Susan Hofer  
(202) 482-2721

**DENIAL OF EXPORT PRIVILEGES IMPOSED AGAINST  
SOUTH AFRICAN GUN MERCHANT**

WASHINGTON -- The Commerce Department's Under Secretary for Export Administration, William A. Reinsch, has affirmed the order of an Administrative Law Judge and denied, for a period of 20 years, all U.S. export privileges of South African gun merchant Ian Ace. The penalty results from the Reinsch's finding that Ace committed seven violations of the Export Administration Regulations.

Reinsch found that, between mid-1990 and early 1992, Ace, manager of A. Rosenthal (PTY) Ltd., Cape Town, South Africa, conspired with James L. Stephens, president and co-owner of Weisser's Sporting Goods, National City, California, and Karl Cording, co-owner and managing director of A. Rosenthal (PTY) Ltd., Windhoek, Namibia, to export, and on two occasions actually exported, U.S.-origin shotguns with barrel lengths of 18 inches and over to Namibia and South Africa without obtaining the proper Commerce Department licenses. Ace also made false and misleading representations of material fact in connection with the preparation, submission, or use of export control documents, the agency said.

"This case is aggravated by the fact that Ace violated export controls that were designed to express U.S. abhorrence for apartheid as then practiced in South Africa. These violations were serious and undermined important U.S. foreign policy interests," Reinsch said in his decision.

At the time Ace committed the violations, exports to Namibia and South Africa of shotguns with barrel lengths of 18 inches and over were strictly controlled. As such, even if Ace had filed an export license application, the general U.S. government policy at the time would have been to deny it.

Ace's co-conspirators, Cording and Stephens, are also subject to denial orders. On June 6, 1997, Cording was denied all U.S. export privileges for 20 years. On November 28, 1995, Stephens was denied all U.S. export privileges for 15 years and fined \$60,000.